

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

UNITED STATES OF AMERICA	§	
Vs.	§	CRIMINAL ACTION 9:04CR49
XAVIER MONZELL SMITH	§	

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS OF FACT AND
RECOMMENDATION ON FELONY GUILTY PLEA

On this day, the Court considered the Findings of Fact and Recommendation of United States Magistrate Judge Judith K. Guthrie regarding the Defendant's plea of guilty to Count 3 of the 3-Count Indictment in the above-numbered cause. Having conducted a proceeding in the form and manner prescribed by Fed.R.Crim.P. 11, Magistrate Judge Guthrie recommends that the Court accept the plea agreement and the guilty plea of the Defendant.

No objections have been filed to the Magistrate Judge's Findings and Recommendation within the time period set by law, and neither party has requested a *de novo* review of the plea proceedings before the Magistrate Judge. If a *de novo* review becomes necessary at any point during the pendency of the cause, the Court reserves the right to conduct it. Based on the current record before the Court, it appearing that the Findings and Recommendation are neither clearly erroneous nor contrary to law, the Court is of the opinion that said Findings and Recommendation should be adopted. It is accordingly

ORDERED that the Findings of Fact and Recommendation of United States Magistrate Judge Judith K. Guthrie, filed April 7, 2005, is hereby **ADOPTED**. It is further

ORDERED that the Defendant's guilty plea is accepted and approved by the Court. Further, the plea agreement is approved by the Court, conditional upon a review of the presentence report. It is finally

ORDERED that, pursuant to the Defendant's plea agreement, the Court finds the Defendant **GUILTY** of Count 3 of the Indictment in the above-numbered cause and enters a **JUDGMENT OF GUILTY** against the Defendant as to Count 3 of the Indictment.
So **ORDERED** and **SIGNED** this **5** day of **May, 2005**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge